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CROWELL & MORING LLP			HERRERA, DIEGO D	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/542,173	Applicant(s) PROVVEDI, LEONARDO
	Examiner DIEGO HERRERA	Art Unit 2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 14 July 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) 11 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-10 and 12-14 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 14 July 2005 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/146/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10542173, filed on 3/3/2006.

Information Disclosure Statement

The information disclosure statement filed 7/14/2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because one of the cited references cannot be found as cited, the number for reference Berglund et al. is not complete. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Specification

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Response to Amendment

Claim 11 has been cancelled.

Claims 1, 2-6, 8, and 12-14 have been amended.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-10, and 12-14 rejected under 35 U.S.C. 103(a) as being unpatentable Murata et al. (US 7339998 B2), and in view of Shiu et al. (US 20030036403 A1).

Regarding claim 1. Murata et al. discloses in a mobile communications system comprising a network (col. 9 lines: 64—col. 10 lines: 6, Murata et al. teaches network components such as multiple mobiles and cells stations, hence, a network) and at least one mobile station (col. 9 lines: 64—col. 10 lines: 6, Murata et al. teaches network components such as multiple mobiles and cells stations, hence, a network), a method for selecting a transport format combination TFC to be used for communication from the

mobile station to the network (abstract), over a channel of variable quality (fig. 4, 10, B-12, col. 15 lines: 3-16, Murata et al. teaches classification of TFC in order of classes based on quality and evaluation), the method comprising the steps of:

- a) defining a set of possible transport format combinations (fig. 4, 10, B-12, col. 15 lines: 3-16, Murata et al. teaches classification of TFC in order of classes based on quality and evaluation);
- b) calculating a channel quality requirement for the effective use of each transport format combination (fig. 4, 10, B-12, col. 15 lines: 3-16, Murata et al. teaches classification of TFC in order of classes based on quality and evaluation);
- c) indicating the transport format combinations and the channel quality requirements to the mobile station (col. 19 lines: 34-54, Murata et al. teaches base station sending TFC information to mobile device after monitoring conditions of traffic);
- d) calculating an existing quality of the channel of variable quality (fig. 10-12, col. 8 lines: 28-34, col. 19 lines: 22-60, col. 20 lines: 46—col. 21 lines: 52, Murata et al. teaches method of classifying ranking based on quality); and
- e) indicating the existing quality of the channel of variable quality to the mobile station (fig. 10-12, col. 8 lines: 28-34, col. 19 lines: 22-60, col. 20 lines: 46—col. 21 lines: 52, Murata et al. teaches method of classifying ranking based on quality; and, in the mobile station (fig. 10-12, col. 8 lines: 28-34, col. 19 lines: 22-60, col. 20 lines: 46—col. 21 lines: 52, Murata et al. teaches method of classifying ranking based on quality, suspecting that the calculation are also derived from system, it is not clear as to what is meant "in the mobile station");

f) storing the transport format combinations and relative channel quality requirements

(col. 20 lines: 39-45, Murata et al. teaches storing information parameters in a non-volatile memory in mobile station);

However, Murata et al. does not discloses specifically, g) receiving the indication of existing channel quality; nonetheless, Shiu et al. teaches sending information to the mobile device about indication of existing channel quality (¶: 49-52, Shiu et al. teaches parameters send for mobile device to adjust for transmission of data). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include receiving the indication of existing channel quality, as taught by Shiu et al. for the purpose of adjusting power levels and user-specific data in a time-division multiplexed manner along with control data (¶:49).

h) selecting one of the transport format combinations having a channel quality requirement no greater than the existing channel quality (fig. 4, 10, B-12, col. 15 lines: 3-16, Murata et al. teaches classification of TFC in order of highest to lowest quality), and

i) informing the network of the selected transport combination (col. 6 lines: 40-49, Murata et al. teaches communication system W-CDMA information relating to TFC), however, Murata et al. doesn't disclose specifically characterized in that the indication of the existing quality of the channel of variable quality is communicated to the mobile station by in-band signaling, whereby the indication of the existing quality of the channel of variable quality is included in every downlink radio packet, in data locations normally assigned for carrying user information, nevertheless, Shiu et al. teaches information

relating variable quality is communicated to the mobile station by in-band signaling, in other words, downlink radio packets through base station(s) (abstract, title, ¶:48-50, 52-55, Shiu et al. teaches downlink transmitting channel quality from base station to the mobile device station). One skilled in the art would be motivated to have information relating to quality of service to mobile station by means of the system using base station through downlink to be stored in mobile device to adjust internal settings to broadcasted parameters by base station to be able to efficiently communicate and abate SNR.

Consider claim 2. A method according to claim 1 wherein the step h of selecting one of the transport format combinations is performed with regard to the type of data to be transmitted by the mobile station (¶: 49-52, Shiu et al. teaches parameters send for mobile device to adjust for transmission of data).

Consider claim 3. A method according to claim 1, wherein the transport format combinations enable transmission of data blocks containing data from different Temporary Block Flows in each block (¶: 33, Shiu et al. teaches transport format combinations enable transmission of data blocks in this case following the standards listed that are known in the art and are incorporated).

Consider claim 4. A method according to claim 1, wherein calculation of the existing quality of the channel of variable quality is performed periodically during communication (col. 10 lines: 6-19, Murata et al. teaches monitoring communication traffic).

Consider claim 5. A method according to claim 1, wherein the relative channel quality is calculated as the minimum channel quality required such that data sent on the channel is received with an error ratio below a defined threshold (col. 20 lines: 15-19,

col. 22 lines: 39-45, Murata et al. teaches monitoring channel if it falls below class level or goes beyond designated class level it will not be allowed).

Consider claim 6. A method according to claim 1, wherein the step c of indicating transport format combinations and channel quality requirements to the mobile station includes the steps of:

- (c1) ranking the transport format combinations according to the associated channel quality requirement (fig. 12, col. 21 lines: 65—col. 22 lines: 8, Murata et al. teaches simplified calculation of rank and it is an absolute value); and
- (c2) indicating the rank of each transport format combination to the mobile station, along with the transport format combinations themselves, to the mobile station (col. 19 lines: 54-60, Murata et al. teaches transmitting information to mobile station traffic information and classification).

Consider claim 7. A method according to claim 6, wherein the step c2 of indicating the rank of each transport format combination comprises indicating the transport format combinations themselves in order of increasing, or decreasing, rank (fig. 4, 10, B-12, col. 15 lines: 3-16, Murata et al. teaches classification of TFC in order of classes based on quality and evaluation).

Consider claim 8. A method according to claim 6, wherein the step of indicating the existing quality of the channel of variable quality comprises indicating the rank of the transport format combination having the highest channel quality requirement, which could effectively be employed on the channel in its existing quality (fig. 10-12, col. 8 lines: 28-34, col. 19 lines: 22-60, col. 20 lines: 46—col. 21 lines: 52, Murata et al.

teaches method of classifying ranking based on quality).

Consider claim 9. A method according to claim 8, wherein the rank is indicated as an absolute value (fig. 12, col. 21 lines: 65—col. 22 lines: 8, Murata et al. teaches simplified calculation of rank and it is an absolute value).

Consider claim 10. A method according to claim 8 wherein the rank is indicated as a relative value, being an offset relative to a previous value of the rank (col. 10, lines: 41-45, col. 12 lines: 39-56, abstract, Murata et al. teaches measurements are relative and ranked accordingly).

Consider claim 12. A communications system comprising a network and a mobile station, respectively comprising means for carrying out the steps of, and arranged to perform, the method of claim 1 (col. 6 lines: 40-49, Murata et al. teaches communication system W-CDMA).

Consider claim 13. A network comprising means for carrying out the respective steps of the method of claim 1 and arranged within a communications system according to claim 12 (col. 9 lines: 64—col. 10 lines: 6, Murata et al. teaches network components such as multiple mobiles and cells stations, hence, a network).

Consider claim 14. A mobile station comprising means for carrying out the respective steps of the method of claim 1 and arranged within the communications system according to claim 12 (col. 10 lines: 24-36, Murata et al. teaches mobile station apparatus being able to have the arranged communications system and TFC).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIEGO HERRERA whose telephone number is (571)272-0907. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diego Herrera/
Examiner, Art Unit 2617

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617